Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Access Charge Reform	)	**CC Docket No. 96-262**
	)	
Price Cap Performance Review for Local Exchange Carriers	)	**CC Docket No. 94-1**
	)	
	)	
Low-Volume Long Distance Users	)	**CC Docket No. 99-249**
	)	
Federal-State Joint Board on Universal Service	)	**CC Docket No. 96-45**
	)	

MCI WORLDCOM REPLY COMMENTS

MCI WorldCom, Inc. (MCI WorldCom) hereby submits its reply to comments on the modified access charge and universal service proposal filed with the Commission on March 8, 2000 by the Coalition for Affordable Local and Long Distance Services (CALLS).

As MCI WorldCom showed in its initial comments, the modified CALLS plan would, beginning with the 2001-2002 tariff year, provide the ILECs with more revenue than they would receive under the current rules.[1] The ILECs would receive more revenue under CALLS because the CALLS plan reduces the X-factor from its current level of 6.5 percent to GDP-PI once the "target" switched access rate of 0.55 cents per minute or 0.65 cents per minute is achieved. Many price cap ILECs would reach the

[1] MCI WorldCom Comments, CC Docket No. 96-262, April 3, 2000, Attachment 3.

target rate in the July 1, 2001 annual access filing, and thus would benefit from the lower X-factor in the 2002, 2003, and 2004 annual access filings.

Several other commenters made similar observations about the level of ILEC revenue under the CALLS plan. The Competition Policy Institute noted, for example, that "the [CALLS] proposal will apparently result in both a nominal and real (net present value) increase in total access revenues over the five years of the plan."[2] Similarly, NASUCA pointed out that "the elimination of the productivity factor offset will result in an access windfall for the ILECs in the future."[3]

Since the initial comments were filed, the ILECs have filed their 1999 Form 492A earnings reports with the Commission. These earnings reports, which are summarized in the table below, show that the earnings of many ILEC members of CALLS are already at levels that do not appear to represent a "reasonable balancing" of the "investor interest in maintaining financial integrity and access to capital markets and the consumer interest in being charged non-exploitative rates."[4] Whereas the ILEC members of CALLS earned an average of 18.44 percent in 1999, their cost of capital is approximately 9 percent.[5] Some ILECs' earnings have reached astonishing levels, such

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[2]Competition Policy Institute Comments in CC Docket No. 96-262, April 3, 2000, at 4.

[3]NASUCA Comments in CC Docket No. 96-262, April 3, 2000, at 10.

[4]Jersey Cent. Power & Light v. FERC, 810 F.2d 1168, 1177-1178 (D.C. Cir. 1987).

[5]See, e.g., Direct Case of the General Services Administration filed January 19, 1999 in CC Docket No. 98-166 (supporting a cost of capital based on 1998 data of 9.27 percent); Responsive Submission of AT&T Corp., filed March 16, 1999 in CC Docket

as the 28.93 percent return achieved by Ameritech and the returns in excess of 30 percent achieved by some GTE companies.

ILEC	1999 Earnings
Ameritech	28.93 %
Bell Atlantic	13.64 %
BellSouth	21.05 %
Pacific Bell	20.87 %
Nevada Bell	18.99 %
SWBT	10.27 %
U S West	19.09 %
GTE (total)	23.09 %
Total CALLS ILEC	**18.44 %**

Not only do the 1999 earnings reports show that the ILECs' earnings have reached levels that appear, in many cases, to be outside the zone of reasonableness, but the earnings reports also show that the upward trend in ILEC earnings is actually accelerating. While ILEC earnings have increased every year since the inception of price cap regulation, the increase in earnings between 1998 and 1999 is the largest on record.[6]

No. 98-166 (supporting a cost of capital based on 1998 data of 8.63 percent); MCI Comments in CC Docket Nos. 96-262, 94-1, and RM 9210, filed October 26, 1998 at Appendix C (supporting a cost of capital based on 1998 data of 9.1 percent); MCI Comments in AAD 96-28 and AAD 95-172, filed March 11, 1996 at Attachment A (supporting a cost of capital based on 1995-1996 data of 9.48 percent); MCI Comments in CC Docket No. 94-1, filed May 9, 1994 at Appendix A (supporting a cost of capital based on 1993-1994 data of 9.54 percent).

[6]In 1998, the average price cap ILEC return was 15.94 percent (see FCC Rate of Return Report, May 13, 1999). The 1999 Form 492A data shows that average price cap ILEC earnings increased 2.7 percentage points to 18.64 percent, an increase of 2.7

The ILECs' 1999 interstate earnings, and the pattern of ever-increasing earnings, cast doubt on whether Commission approval of the CALLS plan would be consistent with the Commission's statutory obligation to ensure just and reasonable rates. Given that the earnings of the ILEC members of CALLS have already reached levels that are, in many cases, far in excess of the ILECs' cost of capital and the Commission's most-recently prescribed rate of return of 11.25 percent, it is difficult to see how the Commission could find the CALLS plan provisions that increase ILEC revenue levels to be consistent with the Commission's obligations under section 201 of the Act or consistent with the public interest.

The Commission cannot rely on the CALLS coalition's claim that the CALLS plan's pricing reforms will spur competition sufficient to constrain ILEC revenues below the maximums permitted by the CALLS plan.[7] As an initial matter, the CALLS plan's pricing reforms actually make it less likely that competition will put pressure on the ILECs' earnings. The CALLS plan moves ILEC revenues from business lines to residential lines, from urban lines to rural lines, and from access charges to a separate universal service fund. In sum, the CALLS plan moves ILEC revenues from the lines most subject to competition -- urban business lines -- to the lines least subject to competition -- rural residential lines.

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percentage points. Prior to 1999, the largest year-to-year increase in price cap ILEC earnings was between 1995 and 1996, when average price cap ILEC earnings increased from 14.02 percent to 15.15 percent.

[7]CALLS Reply Comments, CC Docket No. 96-98, December 3, 1999 at 52-58; Letter from John T. Nakahata, Harris, Wiltshire & Grannis, to Larry Strickling, FCC, February 4, 2000.

Furthermore, the Commission itself has consistently emphasized the slow pace at which local exchange and exchange access competition is developing.[8] The ILECs' 96 percent market share and the ILECs' current earnings levels show that there is little prospect that competition sufficient to ensure just and reasonable rates is ready to emerge.[9] For the Commission to now rely on competition to hold ILEC rates at just and reasonable levels would be contrary to the D.C. Circuit's conclusion that rate decisions cannot be based on "a largely undocumented reliance on market forces as the principal means of rate regulation."[10]

Finally, other Commission actions that are being considered in conjunction with the CALLS plan would actually make it less likely that competition will constrain ILEC rates. First, as MCI WorldCom discussed in its initial comments, the ILEC members of CALLS may have sought and obtained support from the Common Carrier Bureau for a one-year extension of the use restriction on unbundled loop and transport combinations adopted in the Supplemental Order in CC Docket No. 96-98.[11] Second, the Commission

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[8] See, e.g., Application of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc., Memorandum Opinion and Order, 13 FCC Rcd 18025, 18121-18123 (1998).

[9] The Commission's own statistics show that the ILECs' market share of the local exchange and exchange access market is 96 percent "even under the most expansive definition of local service competition." Industry Analysis Division, Local Competition: August 1999 at 1.

[10] Farmers Union Central Exchange, Inc. v. FERC, 734 F.2d 1486, 1508 (D.C. Cir. 1984).

[11] MCI WorldCom Comments in CC Docket No. 96-262, April 3, 2000, at 5-6.

has issued a Further Notice of Proposed Rulemaking[12] proposing changes to depreciation regulation that, in the Commission's own words, "might enable incumbent LECs to raise arbitrarily the rates for essential inputs that competitors must purchase from the incumbent LECs."[13]

It is clear that ILEC earnings would be higher under the CALLS plan than they would be if the current rules were maintained. The price cap indexes would be higher, ILEC revenues would be shifted to less-competitive lines, and UNE-based competition would be less viable. Given that the Commission's current rules are already producing ILEC earnings that, in many cases, appear to be outside the zone of reasonableness, adoption of a CALLS plan that would provide the ILECs with more revenue than the current rules would appear to contravene the Commission's statutory duty to ensure just, reasonable, and nondiscriminatory rates.

Respectfully submitted,
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/s/

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[12] 1998 Biennial Review, Further Notice of Proposed Rulemaking, CC Docket No. 98-137, rel. April 3, 2000.

[13] 1998 Biennial Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers, Report and Order and Memorandum Opinion and Order, CC Docket No. 98-137; ASD 98-91, released December 30, 1999 at ¶ 69.